

The Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UBERVITA, LLC,

Plaintiff,

vs.

JOHN DOES 1-10,

Defendants.

) No. 14-00996-MJP

) *EX PARTE* MOTION FOR LEAVE TO SEEK
) THIRD PARTY DISCOVERY TO LEARN
) DEFENDANTS' IDENTITIES

) NOTE ON MOTION CALENDAR:
) July 7, 2014

Plaintiff Ubervita, LLC ("Ubervita"), does not know the identities of defendants John Does 1-10 (collectively, "Defendants").¹ However, Ubervita knows that Defendants have made fraudulent bulk orders of Ubervita product through Amazon, have posed as Ubervita in making false counterfeiting complaints to Amazon, and have posed as dissatisfied Ubervita customers in posting phony negative reviews of Ubervita products on Amazon.com.² Ubervita also knows that Defendants have posed as Ubervita in posting a fraudulent ad on Craigslist.com.³ Therefore, Ubervita respectfully requests leave to serve subpoenas on Amazon, Inc. (or other appropriate

¹ Complaint (Ct. Dkt. 1) at ¶ 3.

² *Id.* at ¶ 7.

³ *Id.*

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ATKINS IP

93 South Jackson Street #18483
Seattle, WA 98104-2818
(206) 628-0983/Fax: (206) 299-3701

Amazon entity), and Craigslist, Inc. (or other appropriate Craigslist entity), so it can learn the Defendants' identities. Doing so would enable Ubervita to serve Defendants with the summons and complaint in this matter; amend its complaint to replace the fictitious names with the Defendants' true names; and join the proper Defendants in this case. Leave of Court is required before Ubervita can serve the subject subpoena under Federal Rule of Civil Procedure 26(d)(1) until the parties have conferred, which is a requirement Ubervita cannot satisfy until it learns the Defendants' identities. The Court should grant Ubervita's motion to resolve this chicken-and-egg dilemma and enable this litigation to proceed.

DATED this 7th day of July, 2014.

By /s/ Michael G. Atkins

Michael G. Atkins

WSBA# 26026

Atkins Intellectual Property, PLLC

93 South Jackson Street #18483

Seattle, WA 98104-2818

T (206) 628-0983/F (206) 299-3701

E-mail: mike@atkinsip.com

Attorneys for Ubervita, LLC

**EX PARTE MOTION FOR LEAVE TO
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LEARN DEFENDANTS' IDENTITIES - 2**

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